

are customarily provided at no cost by a technical service provider to a participant as determined by the State Conservationist.

(m) *Payment rates for technical services acquired by participants.* (1) NRCS will calculate TSP payment rates for technical services using national, regional, and locally determined price data.

(2) *Establishing TSP payment rates.* (i) NRCS will establish guidelines to analyze the local pricing information using a standardized method.

(ii) The State Conservationist will establish TSP payment rates in each State for the various categories of technical services. The State Conservationist will determine the rates according to local NRCS cost data, procurement data, and market data.

(iii) NRCS at the National Office will review and approve State payment rates to ensure consistency where similar resource conditions and agricultural operations exist. Payment rates may vary to some degree between or within States due to differences in State laws, the cost of doing business, competition, and other variables.

(iv) NRCS at the State and National levels will review payment rates annually, or more frequently as needed, and adjust the rates based upon data from existing procurement contracts, Federal cost rates, and other appropriate sources.

(v) NRCS may adjust payment rates, as needed, on a case-by-case basis, in response to unusual conditions or unforeseen circumstances in delivering technical services such as highly complex technical situations, emergency conditions, serious threats to human health or the environment, or major resource limitations. In these cases, NRCS will set a case-specific TSP payment rate based on the Department's determination of the scope, magnitude, and timeliness of the technical services needed.

[69 FR 69472, Nov. 29, 2004, as amended at 74 FR 2805, Jan. 16, 2009]

§ 652.6 Department delivery of technical services.

(a) The Department may enter into a procurement contract, contribution agreement, cooperative agreement, or other appropriate instrument to assist

the Department in providing technical assistance when implementing the conservation programs covered by this part.

(b) The Department may also enter into a procurement contract, contribution agreement, cooperative agreement, or other appropriate instrument with technical service providers to provide related technical assistance services that accelerate conservation program delivery. Related technical assistance services may include activities or services that facilitate the development, processing, or implementation of a program contract, such as recording conservation planning decisions and specifications.

(c) NRCS may enter into agreements with other agencies or with a non-Federal entity to provide technical services to eligible participants.

(d) The Department will ensure that such legal instruments contain qualification and performance criteria necessary to ensure quality implementation of these conservation programs. When the Department obtains assistance from a technical service provider through a procurement contract, contribution agreement, cooperative agreement, or other similar instrument, the technical service provider is authorized to provide technical services and receive payment even if such technical service provider is not certified in accordance with subpart B of this part nor identified on the approved list.

(e) The Department will implement procurement contracts, contribution agreements, cooperative agreements, and other appropriate instruments in accordance with applicable Federal acquisition or USDA Federal assistance rules and requirements for competency, quality, and selection, as appropriate. Any contract, contribution agreement, cooperative agreement, or other appropriate instrument entered into under this section shall be for a minimum of one year, shall not exceed three years in duration, and may be renewed upon mutual agreement of the parties.

(f) A technical service provider may not receive payment twice for the same technical service, such as once from a

participant through a program contract or written agreement and then again through a separate contract or agreement made directly with the Department.

(g) The Department will, to the extent practicable, ensure that the amounts paid for technical service under this part are consistent across conservation program areas, unless specific conservation program requirements include additional tasks.

[69 FR 69472, Nov. 29, 2004, as amended at 74 FR 2806, Jan. 16, 2009]

§ 652.7 Quality assurance.

(a) NRCS will review, in consultation with the Farm Service Agency, as appropriate, the quality of the technical services provided by technical service providers. As a requirement of certification, technical service providers must develop and maintain documentation in accordance with Departmental manuals, handbooks, and technical guidance for the technical services provided, and furnish this documentation to NRCS and the participant when the particular technical service is completed. NRCS may utilize information obtained through its quality assurance process, documentation submitted by the technical service provider, and other relevant information in determining how to improve the quality of technical service, as well as determining whether to decertify a technical service provider under subpart C of this part.

(b) Upon discovery of a deficiency in the provision of technical service through its quality assurance process or other means, NRCS will, to the greatest extent practicable, send a notice to the technical service provider detailing the deficiency and requesting remedial action by the technical service provider. Failure by the technical service provider to promptly remedy the deficiency, or the occurrence of repeated deficiencies in providing technical services, may trigger the decertification process set forth in subpart C of this part. A failure by NRCS to identify a deficiency does not affect any action under the decertification process. Technical service providers are solely responsible for providing technical

services that meet all NRCS standards and specifications.

Subpart B—Certification

§ 652.21 Certification criteria and requirements.

(a) To qualify for certification an individual must:

(1) Have the required technical training, education, and experience to perform the level of technical assistance for which certification is sought;

(2) Meet any applicable professional or business licensing or similar qualification standards established by State or Tribal law;

(3) Demonstrate, through documentation of training or experience, familiarity with NRCS guidelines, criteria, standards, and specifications as set forth in the applicable NRCS manuals, handbooks, field office technical guides, and supplements thereto for the planning and applying of specific conservation practices and management systems for which certification is sought; and

(4) Not be decertified in any State under subpart C of this part at the time of application for certification.

(b) To qualify for certification an entity or public agency must be authorized to provide such services in the jurisdiction and have a certified individual providing, in accordance with this part, technical services on its behalf.

(c) A technical service provider, as part of the certification by NRCS, must enter into a Certification Agreement with NRCS specifying the terms and conditions of the certification, including adherence to the requirements of this part, and acknowledging that failure to meet these requirements may result in ineligibility to receive payments from the Department, either directly or through the participant, for the technical services provided or may result in decertification.

(d) NRCS will certify Technical Service Providers for a time period specified by NRCS in the Certification Agreement, not to exceed 3 years. Decertification and Renewal of Certification is administered in accordance with § 652.26.